

From: jm@mandrake.prospeed.net@inetgw
To: Microsoft ATR
Date: 1/24/02 12:05pm
Subject: Microsoft Settlement

Dear Sir or Madam;

I am writing in opposition to the proposed anti-trust settlement with Microsoft.

Please excuse my need to state my qualifications so that you understand the reasons for my opposition. I am a graduate of MIT (1983) in Computer Science with 18 years of industry experience, so I feel competent to offer informed comments on the technical aspects (e.g., what qualifies as "innovation") of the case. I am also an owner of a 45 person, Subchapter S software company which develops for both Microsoft operating systems and various UNIX (e.g., Linux) operating systems, so I feel competent to offer informed comments on the economic aspects of the case.

With regard to technical matters, no company has acted more aggressively to quash technical innovation in the computer field. It is particularly surreal to hear Microsoft stay "on message" about "innovation," yet be unable to state clearly a single technical innovation they have produced (rather than bought or imitated).

If there is a single point I would have you understand, it is this: Microsoft acts only to defend its dominant market share. It does NOT proactively innovate. It REACTIVELY identifies innovative threats. It then leverages its market dominance to kill the innovation/threat by any means necessary, whether via dumping software, via secret contracts, via lobbying, and at least once via sabotage. To wit:

(1) Threat: the Netscape platform. It is well-known how Microsoft cost-shifted from their OS and office suite monopolies and "dumped" their browser on the market, and made it impossible for consumers to avoid it, and made it impossible for PC makers to include Netscape. As you know, Netscape is now irrelevant as a browser.

(2) Threat: the "write once, run anywhere" Java platform. Microsoft made incompatible changes to the platform, and they now refuse to ship a Java implementation, and they make it hard for consumers to receive the Sun one via PC manufacturers or via download (it is a huge download). They also cost-shifting from its monopolies and dumping a Java-like "C#" programming platform on the market.

(3) Threat: increasingly powerful game platforms from Sony and Nintendo. Microsoft is cost-shifting from its monopolies to subsidize the "XBox" and drive these consoles from the marketplace.

(4) Threat: competitive DOS implementations, sabotage for which is described in detail at:

<http://www.ddj.com/documents/s=1030/ddj9309d/9309d.htm>

While I urge you in the strongest possible way to take the time to read a single, simple web page describing such an egregious abuse of market power, I shall summarize. Microsoft wrote code in Windows 3.1 to try and detect any competitor's underlying DOS, and then notify the user that there is a "Non fatal error" so as to discourage use of a perfectly serviceable alternative. They covered their tracks by encrypting the code and disabling breakpoints (use of a debugger) so their act would not be exposed to the world for the anti-competitive act it is. As you know, these competitors were eliminated.

(5) Threat: the DOJ. Please forgive me if I have my facts wrong, but it is my understanding that Microsoft lobbied to have the DOJ budget cut after the anti-trust action began. I have read this in many sources, but here is one for your convenience:

<http://zdnet.com.com/2100-11-501473.html?legacy=zdn>

No one can protect us consumers but you. It is the function of government to protect citizens from threats both external and internal. This is a dire internal threat to the health of the software market.

I offer the following comments, suggestions, and pleas:

(1) Such anti-competitive, anti Free Market, and thus anti-consumer behavior must not be allowed to continue.

(2) Microsoft must not be allowed to continue to enjoy the market advantages and other economic benefits (e.g., approximately \$35 Billion in cash on hand) resulting from its illegal activities, and be able to leverage them to quash threats/innovations. To do so is unjust. I fail to understand how this is different from letting a convicted serial burglar keep all his ill-gotten goods when it is known exactly from whence they came. By themselves, "conduct" remedies on future behavior will not remove the illegally-obtained market and economic dominance of Microsoft.

(3) Neither will the lack of punishment for past illegal acts provide any deterrent whatsoever to future anti-competitive acts. Microsoft boasts about its "hard core" tactics, and the "hard core" way to think about conduct remedies is that they will continue to be able to benefit from illegal acts -- they just might not be able to repeat them.

(4) Given that Microsoft has upwards of a 90% market share, there is NO

competition left in the marketplace. Competition must be restored to protect consumers. Conduct remedies on future behavior will not restore competition.

(5) Many technical innovations come from venture-funded startups. Few VCs will now fund start-ups that will innovate if the innovation in any way threatens Microsoft's monopolies (they know what I said above -- in order to survive, you must not be seen by Microsoft as a threat):

http://seattlepi.nwsourc.com/venture/29375_vc29.shtml

You must act to restore innovation by stopping this anti-competitive, anti-innovation behavior and restore faith in the free markets by those who help make free markets. Any penalty must be severe enough to do so. The current settlement does none of these things.

I apologize for the length of this message, but even so, it is ruthlessly abbreviated. Please, please feel free to call me if there is anything I can do to provide further information.

Very Truly Yours,

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